In the High Court of Uttaranchal, at Naianital.

Appeal from Order No. 228/2002

1- Smt. Nasima Khatoon W/o Late Sayed,

2- Knm. Shahna D/o Late Sayed,

3- Master Mohd. Anis S/o Late Sayed,

4- Master Zameel S/o Late Sayed

5- Km. Sahras S/o Late Sayed,

6- Mr. Nafis S/o Late Sayed,

All residents of village Kanwali
(Opposite Bharat Gas),
General Mahadev Singh Raod,
Dehradun ……. Appellants.

Vs.

1- Jagdish Lal Kohli S/o Mohan Chand
Kohli R/o 30-5/A, Patel Nagar,
Dehradun.

2- United India Insurance Company Ltd.
through its Divisional Manager,
Tagore Villa, Dehradun …… Respondents.

Sri L.K. Tiwari, learned counsel for the appellants.
Sri K.K. Shah, learned counsel for the respondent- Insurance Company.

Dated: 17th December, 2004

Coram: Hon'ble Irshad Hussain, J.
Hon'ble B.S. Verma, J.

(P.C.:)

Through this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'Act'), the award dated 24-6-2002 by the Motor Accident Claim Tribunal, Dehradun, in M.A.C. Case No. 194/2000, is under challenge.

2- The only ground taken is that the compensation awarded is inadequate by reason of not applying proper multiplier, as provided under Schedule-II of Section 163-A of the 'Act'. In this case for want of required proof of income the notional income of the deceased was taken to calculate the dependency, as provided under the said Schedule of the 'Act'. The notional income is Rs. 15,000/- per year and the learned Tribunal applied multiplier of 10 only keeping in

view that the deceased was aged about 50 years. The Schedule indicate that if the age was up to 50 years, the proper multiplier will be 13. The error thus is apparent in the award and to that extent the enhancement is required to be made in the compensation, which has to be awarded to the dependents/claimants.

3- 1/3rd of the notional income had been deducted towards the personal expenses of the deceased. The same deduction need to be maintained and the dependency is to be calculated as below:-

Rs. 15,000/- x 13 = Rs. 1,95,000/-. By making deduction of 1/3rd from it, the dependency comes to Rs. 1,30,000/-. A sum of Rs. 3,000/- was awarded towards expenses of treatment; Rs. 2000/- towards funeral expenses and Rs. 5,000/- for loss of consortium. These sums are to be added to the above amount of Rs. 1,30.000/- and the total compensation comes to Rs. 1,40,000/-. The impugned award is therefore liable to be modified accordingly.

4- The appeal is partly allowed. The impugned award dated 24-6-2002 is modified and the compensation awarded to the claimants is enhanced to Rs. 1,40,000/- instead of Rs. 1,10,000/-, together with interest @ 9% per annum, from the date of presentation of the petition, till the date of final payment. The disbursement of the compensation amount shall be made as directed by the Tribunal.

(B.S. Verma, J.) **(Irshad Hussain, J.)**

ISB